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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,633	09/25/2006	Steinar Bjornstad	OSL-038	6061
3897 7590 01/22/2009 SCHNECK & SCHNECK P.O. BOX 2-E SAN JOSE, CA 95109-0005				
			EXAMINER AGA, SORI A	
			ART UNIT 2419	PAPER NUMBER
			MAIL DATE 01/22/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/586,633

**Applicant(s)**

BJORNSTAD, STEINAR

**Examiner**

SORI A. AGA

**Art Unit**

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 02/02/2007.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 5, 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5, 6 and 7 recite the limitation "the buffer unit input" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

3. The term "low bit rate" in claim 6 is a relative term which renders the claim indefinite. The term "low bit rate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

4. Claim 19 recites the limitation "other lengths" in line 2. It is unclear what the recitation is referring to as this is the first time the term "length" appears in the claim and there is insufficient antecedent basis for this limitation in the claim. Similarly, claim 19 recites "each range" in line 3. It is unclear what the recitation is referring to as this is the first time the term "range" appears in the claim and there is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2 and 5-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al.(US 2004/0151171 A1) (herein after Lee) in view of Heinz et al. (US 2003/0076846) (herein after Heinz).

*Regarding claim 1*, Lee teaches a switch within an asynchronous communication network comprising, one or more outputs and a buffer unit communicating with the switch, wherein the buffer unit is adapted to buffer the data until a predefined number of wavelengths leading to a buffered destination is vacant [See figure 2 and paragraph 0060 lines 19-24 where an a large capacity optical router including an optical switch is shown and where a determination is made to determine whether an available wavelength channel exists and if there is no (predefined number of wavelength = zero) available wavelength channel, the data frame waits in the buffer]. However, Lee does not explicitly teach asynchronous network. However, Heinz teaches Asynchronous Transfer Mode using an Ethernet-optical switch [see paragraph 0037 line 19]. It would have been obvious for a person having ordinary skill in the art to use the optical switch in an ATM compatible network in order to take advantage of one of the fastest growing segments of telecommunication allowing of services that offer various speed, latency reliability, security and QOS parameters.

*Regarding claim 2*, Lee teaches the switch of claim 1 wherein the switch is adapted to monitor vacant wavelengths at the switch outputs [**Lee Paragraph 0060 lines 18-20 where a controller checks the state of the output wavelength channel**].

*Regarding claim 5*, Lee teaches the switch of claim 1 wherein data, at the buffer unit inputs, originates from lines external to the switch [**see figure 2 ‘inputs 1-n’ and Paragraph 0037 lines 3-6 where the inputs for the optical router are incoming from an IP router (external lines)**].

*Regarding claim 6*, Lee teaches the switch of claim 5 as discussed above. However, Lee does not explicitly teach the external lines are lines from aggregation inputs, namely metro access rings. However, Heinz teaches an Ethernet-Optical switch for use in a ring network at a metropolitan exchange [**see paragraph 0009 lines 14-20 and paragraph 0030 lines 27-29**]. It would have been obvious for a person having ordinary skill in the art use external lines that are lines from aggregation inputs, namely metro access rings. This is desirable because it allows for the provision of a system that can be used to improve the speed and reliability of data communications networks for small to medium sized companies in a metropolitan area networks.

*Regarding claim 7*, Lee teaches the switch of claim 1, wherein the data, at the buffer unit input is routed from a one or more switch inputs [**see figure 2 ‘inputs 1-n’ and**

**Paragraph 0037 lines 3-6 where the inputs for the optical router are incoming from an IP router (switch inputs)].**

*Regarding claim 8*, Lee teaches the switch of claim 1, where the switch is selected to operate within one of the following networks among the group consisting of an optical packet switched network, an optical bursts switched network, an electronic packet switched network, a WDM network, and an electronic bursts switched network [see **paragraph 0003 lines 1-3 where the optical router exchanges data traffic such as IP packets in optical frames (optical packet switched network)].**

*Regarding claim 9*, Lee teaches the switch of claim 5, where the switch is an optical switching unit [see figure 2 '40' and **paragraph 0023 lines 1-4 where a large capacity optical router including a plurality of input ports is shown].**

*Regarding claim 10*, Lee teaches the switch according to claim 5, where the switch is an electronic switching unit [see **paragraph 0043 line 1 where the switch includes an electronic switch].**

***Regarding claim 11***, Lee teaches the switch of claim 7, where at least one of the output or input signals of the switch are WDM [see paragraph 0038 lines 1-4 where the inputs are WDMs].

***Regarding claim 12***, Lee teaches the switch of claim 9, where the buffer is an electronic type of buffer [see paragraph 0019 line 6 where the buffer is shown to be an electronic buffer].

***Regarding claim 13***, Lee teaches a method for organizing data flows in an communication network including at least one switch, where said switch is associated with at least one buffer and at least a dataflow that can be divided into data packets, comprising: communicating buffered data to the switch, and buffering the data in the buffer unit until a predefined number of wavelengths leading to a buffered packets destination is vacant [See figure 2 and paragraph 0060 lines 19-24 where an a large capacity optical router including an optical switch is shown and where a determination is made to determine whether an available wavelength channel exists and if there is no (predefined number of wavelength = zero) available wavelength channel, the data frame waits in the buffer]. However, Lee does not explicitly teach asynchronous network. However, Heinz teaches Asynchronous Transfer Mode using an Ethernet-optical switch [see paragraph 0037 line 19]. It would have been obvious for a person having ordinary skill in the art to use the optical switch in an ATM compatible

network in order to take advantage of one of the fastest growing segments of telecommunication allowing of services that offer various speed, latency reliability, security and QOS parameters.

*Regarding claim 14*, Lee teaches the method of claim 13 further defined by monitoring vacant wavelengths at the switch [Lee Paragraph 0060 lines 18-20 where a controller checks the state of the output wavelength channel].

*Regarding claim 15*, Lee teaches the method of claim 13 further defined by buffering data packets into a number of queues according to parameters of the data packets [see paragraph 0043 lines 1-4 where the input data is switched by destination (parameter of data packet) and sent to the buffers].

7. Claims 3,4 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee and Heinz as applied to claims 1, 2 and 5-15 above, and further in view of Ohba (US 6,101,193) (herein after Ohba).

*Regarding claim 3*, Lee teaches the switch of claim 1 as discussed above. However, Lee does not explicitly teach the data and buffered packets are classified according to one of (a) packet data length and (b) length of non-packet data. However, Ohba teaches arranging packets based on packet length [see column 8 lines 62-65]. It would have been



obvious for a person having ordinary skill in the art to classify packets according to packet data length. This is desirable because it helps to make the network improve the fairness characteristics in a short time scale by suppressing the burstiness of traffic.

*Regarding claim 4*, the switch of claim 3, wherein at least one packet of packet data with a length within a first range is associated with a first queue, packets of data with a length within a second range is associated with a second queue, and packets of data with a length within a third range is associated with a third queue, further packets of data of other lengths associated with an arbitrary number of ranges and each range associated with a specific queue among the first, second and third queues [see column 8 lines 66-67 and column 9 lines 1-11 where packets with packet lengths with less than or equal to 100 bytes (first range) are entered into the packet length designated queue A1 or B1; and where packets with packet lengths with less than or equal to 300 bytes and more than 100 bytes (second range) are entered into the packet length designated queue A2 or B2; and where packets with packet lengths with less than or equal to 500 bytes and more than 300 bytes (third range) are entered into the packet length designated queue A3 or B3. See also column 5 lines 17-19 where fourth (arbitrary number) of similar queues can be included]. It would have been obvious for a person having ordinary skill in the art to classify packets according to packet data length. This is desirable because it helps to make the network improve the fairness characteristics in a short time scale by suppressing the burstiness of traffic

*Regarding claim 16*, the method of claim 13, wherein the method further comprises associating data packets with a length within a first range with a first queue [see column

**8 lines 66-67 and column 9 lines 1-2 where packets with packet lengths with less than or equal to 100 bytes (first range) are entered into the packet length designated queue A1 or B1].** It would have been obvious for a person having ordinary skill in the art to classify packets according to packet data length. This is desirable because it helps to make the network improve the fairness characteristics in a short time scale by suppressing the burstiness of traffic.

*Regarding claim 17*, the method of claim 13, wherein the method further comprises associating data packets with a length within a second range with a second queue [see **column 9 lines 2-6 where packets with packet lengths with less than or equal to 300 bytes and more than 100 bytes (second range) are entered into the packet length designated queue A2 or B2].** It would have been obvious for a person having ordinary skill in the art to classify packets according to packet data length. This is desirable because it helps to make the network improve the fairness characteristics in a short time scale by suppressing the burstiness of traffic.

*Regarding claim 18*, the method of claim 13, wherein the method further comprises associating data packets with a length within a third range with a third queue [see **column 9 lines 6-10 where packets with packet lengths with less than or equal to 500 bytes and more than 300 bytes (third range) are entered into the packet length designated queue A3 or B3].** It would have been obvious for a person having ordinary skill in the art to classify packets according to packet data length. This is desirable because it helps to make the network improve the fairness characteristics in a short time scale by suppressing the burstiness of traffic.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SORI A. AGA whose telephone number is (571)270-1868. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571)272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 2419  
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